

**Resource Management Act 1991**  
**Canterbury Regional Council**  
**Decision of Dr Philip Burge (CRC Principal Consents Advisor)**

**Applications by Carleton Dairies Limited (“the applicant”) to:**

**Canterbury Regional Council for:**

**A change of conditions (under s127 RMA) to resource consent CRC210165 to take and use groundwater.**

**The Application**

1. The application to the Canterbury Regional Council is for:

A change of conditions to resource consent CRC210165 to take and use water.
2. As a change of conditions to an existing consent, the consent duration cannot be changed and, if granted, this varied consent will expire on 24 July 2033.
3. This application seeks to add two new bores (BW22/0127 and BW22/0112) and remove an already consented bore (L35/0989), plus a condition associated specifically with bore L35/0989.
4. The application was limited notified to Te Ngāi Tūāhuriri Rūnanga on 28 June 2023, with submissions due 28 July 2023. No submissions were received.
5. The Canterbury Regional Council (CRC) has delegated to me (in my role as a Principal Consents Advisor and a member of the Council's Resource Managers Officers Group (RMOG)), the authority to decide whether an application should be granted if that application has been limited notified but where there are no submitters to be heard.
6. To assist in making this decision, a Section 42A Officer's report has been prepared by Ms Danielle Korevaar, a consultant planner employed by the Canterbury Regional Council as the reporting officer for this application. Her report describes the details associated with the application, an assessment of the effects associated with the proposal and makes recommendations regarding whether the application should be granted or refused. The report also recommends conditions to be included on the consent, should the application be granted.
7. Where appropriate, I have adopted Ms Korevaar's report as per s113(3)(b) of the RMA rather than repeating information, and this decision should therefore be read in conjunction with the recommendations in that report (CRC Content Manager records document C23C/173918).

**Summary of Application and Description of the Receiving Environment**

8. Ms Korevaar has provided a summary of the proposal (paragraphs 15 - 17) and a description of the affected environment (paragraph 20), in her s42A officer's report. Rather than repeat those matters, I adopt them as part of this decision.

**Legal and Planning Matters**

9. Ms Korevaar has also provided an assessment of the legal status of the application (paragraphs 25 - 34). I agree with Ms Korevaar's assessment that the proposed change of conditions mooring is to be treated as a “discretionary” activity under s127 of the RMA.

10. For clarity, per s127(3)(b) RMA means that discretion only applies to matters that arise from the proposed change of the conditions.

### **Submissions**

11. As noted above, no submissions were received, and this application can be decided 'on the papers'.

### **Substantive Decision**

12. Ms Korevaar has provided a recommendation on whether to grant or refuse consent in her s42A report. This recommendation includes discussion of Part 2 of the RMA, and those matters in s104 and s104B which must be considered in making this decision.

13. For clarity, I have outlined my consideration of these matters below.

### ***Consideration of the Application (s104 RMA)***

14. Section 104(1) of the Resource Management Act 1991 (RMA) requires, subject to Part 2, decision makers to have regard to several matters.

### ***Assessment of Actual and Potential Effects (s104(1)(a) and s104(1)(ab) RMA)***

15. Section 104(1)(a) of the Resource Management Act 1991 requires decision makers to have regard to any actual and potential effects on the environment of allowing an activity. I note that I am unlimited in my discretion of effects, so long as those effects arise from the proposed change to the conditions (i.e. per s127(3)(b) RMA).

16. Ms Korevaar helpfully provides a discussion of the actual and potential effects that could arise from the proposal, in paragraphs 45 – 101 of her s42A report. These effects include:

- a. Reasonable and efficient use of water
- b. Effects on neighbouring bores
- c. Effects on surface water
- d. Effects on aquifer stability
- e. Effects from seawater intrusion
- f. Effects on groundwater quality (associated with the take of water)
- g. Effects on Tangata Whenua values
- h. Positive effects

17. I am also required (per s104(1)(ab) RMA) to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive adverse effects on the environment or offset or compensate for any adverse effects on the environment of allowing the activity. The applicant has not proposed any offset or compensation measures.

18. I am satisfied that the relevant effects have been had regard to, and I adopt the summary and consideration of these effects provided by Ms Korevaar.

19. For completeness, I acknowledge the concerns raised by Te Ngāi Tūāhuriri Rūnanga related to the over-allocation of this groundwater zone. The adverse effects of overallocation of the zone is not something I can consider as part of this change of conditions – I am limited by s127(3)(b) RMA to considering only those the matters directly related to the change sought, which do not

provide scope to consider the annual volume allocated and able to be abstracted under this consent.

20. I am therefore unable to address the rūnanga concerns related to the over-allocation of the catchment as part of this process. For clarity however, I consider these matters can and should be considered when (and if) the consent holder seeks to replace this consent upon its expiry in 2033.

21. Provisions of relevant documents (s104(1)(b))

22. Ms Korevaar has also provided a view on the relevant objectives and policies of those documents specified in s104(1)(b) in paragraphs 102 - 120 of her s42A report.

23. I thank Ms Korevaar for this discussion and adopt her discussion of the National Policy Statement Freshwater Management 2020, the National Environmental Standard for Freshwater 2020, the Waimakariri River Regional Plan (including decisions on Plan Change 2), the Canterbury Land and Water Regional Plan (LWRP) (including the decisions on Plan Change 7 to the LWRP) as part of this decision.

24. I note that Ms Korevaar has not specifically identified any individual provisions of the Canterbury Regional Policy Statement 2013 (CRPS), noting that it has been given effect by the LWRP.

25. For completeness, I record that I have had regard to the relevant policies of the CRPS, including those in Chapter 4 (Provision for Ngāi Tahu and their relationship with resources) and Chapter 7 (Freshwater).

26. I note that Ms Korevaar has considered and sought expert advice on the consistency of the proposal with the relevant iwi management plan (see below), consistent with CRPS policy 4.3.2, and that the proposal was notified to Ngāi Tūāhuriri Rūnanga consistent with CRPS policy 4.3.5.

27. As noted above, s127(3)(b) limits my discretion to those matters associated with the proposed change of conditions (i.e. to add a bore), I note that the policy related to reducing over-allocation (i.e. CRPS Policy 7.3.4(2)) is outside what I can consider.

28. Overall, I agree with Ms Korevaar's conclusions that the proposed activity is largely consistent with the policies in the relevant planning documents.

Other Relevant Matters (s104(1)(c))

29. Ms Korevaar considered the Mahaanui Iwi Management Plan and Canterbury Water Management Strategy as other matters that are relevant to the consideration of this application.

30. She has discussed the Mahaanui Iwi Management Plan in paragraphs 89, - 96 of her report. While she makes no conclusion regarding the consistency (or not) with the relevant policies of the iwi management plan, Ms Korevaar acknowledges the concerns raised by Te Ngāi Tūāhuriri Rūnanga through the Tangata Whenua Advisory Service. Ms Korevaar also identifies that, given the limitations of this change of conditions process, she does not consider there is scope to address those concerns.

31. As noted above, I also acknowledge the justified concerns expressed by the rūnanga via the technical advice received but agree with Ms Korevaar that the issues raised are outside the scope of what I can consider as part of this decision.

32. Ms Korevaar considers the Canterbury Water Management Strategy in paragraph 124 of her report, noting that the recommendations of the Waimakariri Zone Committee have been incorporated into the LWRP via Plan Change 7. I agree with Ms Korevaar.

*Consideration of Activities Affecting Drinking Water Supplies (s104G)*

33. Ms Korevaar considers that there is no registered drinking water supply that is likely to be affected by this proposal. I agree with that assessment.

*Part 2 Assessment*

34. In having regard to the matters specified in s104(1) I recognise that that consideration is “subject to Part 2”. I note that the Court of Appeal considered what “subject to Part 2” means in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, [2018] 3 NZLR 283.

35. Ms Korevaar has provided a discussion of that case in paragraphs 41 – 44, and I note that I must consider whether it is necessary to resort to “part 2” to determine this application. Having considered the relevant planning documents, I consider that they are appropriately prepared to give effect to Part 2, and that there is no need to resort to Part 2 to determine this application.

***Determination of the application (section 104B RMA)***

36. Section 104B of the RMA states that, after considering an application for a discretionary (or non-complying) activity, the consent authority may grant or refuse consent and, if it grants consent, may impose conditions under s108.

***Conditions (s108 RMA)***

37. Section 108 allows conditions to be imposed on a consent. Ms Korevaar has recommended a suite of conditions that should be included as part of the consent, should this change of conditions be granted. I agree that these conditions are appropriate.

***Duration (123 RMA)***

38. As a change of conditions pursuant to s127 RMA, I cannot alter the duration and consent will expire 24 July 2033.

**Decision**

39. In summary, I have, subject to Part 2, had regard to the matters in sections 104 of the RMA.

40. Noting that I am limited to the matters subject of this change of conditions, I am satisfied on the evidence before me that the application achieves the purpose of the RMA and can be granted subject to the imposition of the conditions recommended by Ms Korevaar.

41. It is therefore my decision, under delegated authority on behalf of the Canterbury Regional Council, to **GRANT** Carleton Dairies Limited the following change of conditions:

- I. CRC223881 – a change of conditions pursuant to s127 of the Resource Management Act of Water Permit CRC210165

subject to conditions and duration set out in paragraph 140 of Ms Korevaar’s s42A report.

Dated at Christchurch this 18 August 2023

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes that form a stylized, somewhat abstract shape.

Dr Philip Burge

Principal Consents Advisor

(Resource Managers Officers Group)

